

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Keith F. Bell, Ph.D.	)	
	)	
Plaintiff,	)	
	)	Case No: 2:18-cv-00961
v.	)	
	)	Judge Edmund A. Sargus
Worthington City School District,	)	
	)	Magistrate Judge Kimberly Jolson
Defendant.	)	

**Declaration of Adam E. Urbanczyk in Support of Plaintiff's Motion for Summary Judgment**

I, Adam E. Urbanczyk, of the City of Lockport, in the State of Illinois, declare as follows:

1. I am an attorney at law, duly admitted to practice before the Courts of the State of Illinois. I am the attorney for Plaintiff Dr. Keith F. Bell, Ph.D. ("Plaintiff" or "Dr. Bell") and will be moving for admission *pro hac vice*. Except as otherwise expressly stated to the contrary, I have personal knowledge of the following facts and, if called as a witness, I could and would competently testify to the following:
2. In support of Dr. Bell's Motion for Summary Judgment, the following exhibits are attached hereto:
  - a. 01 - true and correct copies of documentation produced in discovery concerning Dr. Bell's background;
  - b. 02 - a true and correct copy of the U.S. copyright registration for the work *Winning Isn't Normal*;
  - c. 03 - a true and correct copy of the U.S. copyright registration for the WIN Passage;
  - d. 04 - a true and correct copy of screenshot of product listings on Dr. Bell's website offering certain goods for sale, publicly available at <http://winningisntnormal.weebly.com/>, last accessed February 11, 2020;

- e. 05 - a true and correct copy of Plaintiff's Complaint;
  - f. 06 - a true and correct copy of Defendant's Answer;
  - g. 07 - a true and correct copy of a screenshot of Defendant's website;
  - h. 08 - true and correct copies of Defendant's initial disclosures;
  - i. 09 - a true and correct copy of a screenshot of Sean Luzader's Twitter page;
  - j. 10 - a true and correct copy of a screenshot of CME's website;
  - k. 11 - a true and correct copy of Defendant's responses to Dr. Bell's first set of interrogatories;
  - l. 12 - a true and correct copy of correspondence sent by counsel for Dr. Bell to Defendant on July 14, 2017;
  - m. 13 - a true and correct copy of a screenshot of Google search results for "winning isn't normal," which I conducted on February 11, 2020;
  - n. 14 - true and correct copies of two articles concerning the risks of utilizing imagery found online, publicly available at <https://www.irmi.com/articles/expert-commentary/copyright-infringement-pitfalls-in-the-online-arena> and <https://lifehacker.com/the-best-ways-to-be-sure-youre-legally-using-online-photo-5992419>, each last accessed on February 11, 2020; and
  - o. 15 - a true and correct copy of Dr. Bell's federal trademark registration for WINNING ISN'T NORMAL.
3. Under Federal Rule of Evidence 201, a court may take judicial notice of a fact "not subject to reasonable dispute" where it "(1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b)(1)-(2). Federal courts routinely take judicial

notice of documents on file in federal or state courts. Harris v. Cnty. Of Orange, 682 F.3d 1126, 1132 (9th Cir. 2012).

4. Additionally, “[c]opyright certificates are the type of documents that the court may judicially notice under Rule 201(b)(2).” Warren v. Fox Family Worldwide, Inc., 171 F. Supp. 2d 1057, 1062 (C.D. Cal. 2001). Similarly, courts may also take judicial notice of trademark registrations for marks registered on the principal registry of the United States Patent & Trademark Office. Kythera Biopharmaceuticals, Inc. v. Lithera, Inc., 998 F. Supp. 2d 890, 897 (C.D. Cal. 2014).
5. The documents at issue here meet the Rule 201 standard and are the types of documents judicially noticed by courts in the Sixth Circuit given that they are on file in the Southern District of Ohio, constitute copyright certificates issued by the U.S. Copyright Office or trademark certificates issued by the USPTO, or are publicly available and not reasonably subject to dispute.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this February 11, 2020, at Chicago, Illinois.

Respectfully submitted,

/s/Adam E. Urbanczyk

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(pro hac vice pending)

*Counsel for Plaintiff Dr. Keith F. Bell*